

**In the
Indiana Supreme Court**

TOM THORNBURG and)	Supreme Court No. 03S00-0510-SJ-469
STEPHANIE THORNBURG)	
)	
vs.)	
)	
BANISTER CONSTRUCTION, INC.)	
THOMAS BANISTER and AUTO)	Case No. 03d02-0310-PL-217
OWNERS INSURANCE COMPANY)	in the Bartholomew Superior Court

ORDER REMANDING JURISDICTION TO TRIAL COURT

Comes now the Hon. Judge Roderick D. McGillivray, Judge of the Bartholomew Superior Court, and pursuant to Ind.Trial Rule 79(H), certifies this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Bartholomew Superior Court and Judge Frank W. Guthrie. The Chronological Case Summary reveals that upon the recusal of Special Judge Steve David, the regular judge of the court, Judge McGillivray, pursuant to local rule, named a striking panel from with Judge Guthrie was selected to serve as successor special judge. Pursuant to Ind.Trial Rule 79(H), a judge appointed to serve as special judge under a local rule must accept jurisdiction in the case unless disqualified pursuant to the *Code of Judicial Conduct*, ineligible for service under Ind.Trial Rule 79, or excused from service by this Court. There being no evidence that one of the exceptions applies, remand to Judge Guthrie is required by the rule.

IT IS, THEREFORE, ORDERED that jurisdiction of this matter is remanded to the Bartholomew Superior Court and Judge Frank W. Guthrie.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Frank W. Guthrie, Jackson Superior Court, P.O. Box 788, Seymour, IN 47274-0788; the Hon. Roderick D. McGillivray, Bartholomew Superior Court, 234 Washington, Columbus, IN 47201-6750, and to the Clerk of the Bartholomew Superior Court.

The Clerk of the Bartholomew Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this _____ day of October, 2005.

Randall T. Shepard
Chief Justice of Indiana